

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	CAUSE NO.: 2:08-CR-75-RL
)	
BENJAMIN D. DANIELS,)	
Defendant.)	

**FINDINGS AND RECOMMENDATION OF THE MAGISTRATE JUDGE
UPON A PLEA OF GUILTY BY DEFENDANT BENJAMIN D. DANIELS**

TO: THE HONORABLE RUDY LOZANO, JUDGE,
UNITED STATES DISTRICT COURT

Upon Defendant Benjamin Daniels' request to enter a plea of guilty pursuant to Rule 11 of the Federal Rules of Criminal Procedure, this matter came for hearing before Magistrate Judge Paul R. Cherry, on July 31, 2008, with the consent of Defendant Benjamin D. Daniels, counsel for Defendant Benjamin D. Daniels, and counsel for the United States of America.

The hearing on Defendant Benjamin D. Daniels' plea of guilty was in full compliance with Rule 11, Federal Rules of Criminal Procedure, before the Magistrate Judge in open court and on the record.

In consideration of that hearing and the statements made by Defendant Benjamin D. Daniels under oath on the record and in the presence of counsel, the remarks of the Assistant United States Attorney and of counsel for Defendant Benjamin D. Daniels,

I FIND as follows:

(1) that Defendant Benjamin D. Daniels understands the nature of the charge against him to which the plea is offered;

(2) that Defendant Benjamin D. Daniels understands his right to trial by jury, to persist in his plea of not guilty, to the assistance of counsel at trial, to confront and cross-examine adverse

witnesses, and his right against compelled self-incrimination;

(3) that Defendant Benjamin D. Daniels understands what the maximum possible sentence is, including the effect of the supervised release term, and Defendant Benjamin D. Daniels understands that the sentencing guidelines apply and that the Court may depart from those guidelines under some circumstances;

(4) that the plea of guilty by Defendant Benjamin D. Daniels has been knowingly and voluntarily made and is not the result of force or threats or of promises;

(5) that Defendant Benjamin D. Daniels is competent to plead guilty;

(6) that Defendant Benjamin D. Daniels understands that his answers may later be used against him in a prosecution for perjury or false statement;

(7) that there is a factual basis for Defendant Benjamin D. Daniels' plea; and further,

I RECOMMEND that the Court accept Benjamin D. Daniels' plea of guilty to the offense charged in Count 1 of the Indictment and that Defendant Benjamin D. Daniels be adjudged guilty of the offense charged in Count 1 of the Indictment and have sentence imposed. A Presentence Report has been ordered. Should this Report and Recommendation be accepted and Defendant Benjamin D. Daniels be adjudged guilty, sentencing will be set at a later date in the Hammond Division, before Judge Rudy Lozano. Defendant Benjamin D. Daniels is **ORDERED** to be present in person at sentencing. Objections to the Findings and Recommendation are waived unless filed and served within ten (10) days. 28 U.S.C. § 636(b)(1)(B).

So ORDERED this 31st day of July, 2008.

s/ Paul R. Cherry
MAGISTRATE JUDGE PAUL R. CHERRY
UNITED STATES DISTRICT COURT

cc: All counsel of record
Honorable Rudy Lozano